

IN THE UNITED STATES DISTRICT FOR  
THE MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

KAREN LURIE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	NO. 1:06-cv-0034MEF
	)	
	)	
GLOBE LIFE AND ACCIDENT	)	
INSURANCE COMPANY,	)	
	)	
Defendant.	)	

DEPOSITION OF BARBARA HERNANDEZ  
TAKEN ON BEHALF OF THE PLAINTIFF  
IN OKLAHOMA CITY, OKLAHOMA  
ON SEPTEMBER 14, 2006

REPORTED BY: ELIZABETH CAUDILL, CSR, RMR, CRR



A P P E A R A N C E S

For the Plaintiffs: Christopher E. Sanspree  
(By videoconference) Attorney at Law  
218 Commerce Street  
Montgomery, Alabama 36104

For the Defendant: Robert Poundstone, IV  
Philip H. Butler  
Attorneys at Law  
401 Adams Avenue, Suite 780  
Montgomery, Alabama 36104

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Also Present: Bilinda Hines  
(By videoconference)

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## S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by  
and among the attorneys for the respective  
parties hereto that the deposition of BARBARA  
HERNANDEZ may be taken on behalf of the PLAINTIFF  
on SEPTEMBER 14, 2006 in Oklahoma City, Oklahoma,  
by Elizabeth Caudill, Certified Shorthand  
Reporter within and for the State of Oklahoma,  
pursuant to Notice.

IT IS FURTHER STIPULATED AND AGREED by  
and among the attorneys for the respective  
parties hereto that all objections, except as to  
the form of the question, are reserved until the  
time of trial, at which time they may be made  
with the same force and effect as if made at the  
time of the taking of this deposition.

\* \* \* \* \*

1                                   \* \* \* \* \*

2                                   BARBARA HERNANDEZ,  
3       having been first duly sworn at 12:39 p.m.,  
4       deposes and says in reply to the questions  
5       propounded as follows, to wit:

6                                   DIRECT EXAMINATION

7       BY MR. SANSPREE:

8               Q       Ms. Hernandez, my name is Chris  
9       Sanspree, and I'm representing Ms. Lurie in a  
10      lawsuit we filed against Globe Life Insurance,  
11      actually Globe Life and Accident Insurance  
12      Company. And we've noticed your deposition.  
13      We've asked that you come and testify regarding  
14      premium payments and stuff like that.

15                   Are you aware of why you're here?

16           A       Yes.

17           Q       And have you seen what I'll call a  
18      deposition notice? I sent your attorneys a  
19      notice of your deposition. I just want to know  
20      whether you've seen it or not.

21           A       Yes, I have.

22                   MR. SANSPREE: I'm going to go ahead  
23      and mark that, Bobby, as Exhibit 1.

24                   MR. POUNDSTONE: I'm trying to think,  
25      would it be easier to renumber them all or for

1 you to just pick up where you ended of numbering  
2 on that last deposition?

3 MR. SANSPREE: My legal assistant's  
4 here, and she said we want to renumber them. Is  
5 it easier for the court reporter to -- how do you  
6 want to handle it?

7 (Off the record)

8 (Plaintiff's Exhibit Number 1 marked  
9 for identification purposes and made a  
10 part of the record)

11 Q (By Mr. Sanspree) Ms. Hernandez, now,  
12 on this depo notice that I sent your attorneys, I  
13 ask that certain -- if you had them, if you had  
14 any documents that are listed here -- we can read  
15 over them as 1 through 9 -- if you have anything  
16 to bring it with you.

17 Do you have anything responsive to  
18 those requests?

19 A I did bring copies of everything that  
20 we've provided with me, and they're all -- as  
21 requested.

22 Q And I asked a bad question. Anything  
23 additional that you haven't given to me, do you  
24 have anything else that has not been produced to  
25 me?

1           A       I have a copy of my inventory sheets  
2 where it shows where our mail inventory was on  
3 the days that the payment was processed. That  
4 wasn't specific to the plaintiff, so I don't  
5 think that that was provided.

6           MR. POUNDSTONE: Actually, I think we  
7 may have.

8           MR. SANSPREE: I think they did,  
9 Ms. Hernandez. I think Bobby sent me that this  
10 morning, but I'll ask you about that.

11           Bobby, I guess we'll mark everything  
12 you've sent to me today as Exhibit 2?

13           MR. POUNDSTONE: There's one thing that  
14 I don't think came from either Sandy or Barbara,  
15 now that I look at it. Did you --

16           MS. PEDERSON: I thought we faxed that  
17 last night.

18           MR. POUNDSTONE: We faxed this, but was  
19 this something that you gave me, or was that  
20 something that we just --

21           THE WITNESS: That's actually something  
22 that I had provided to Staci.

23           MR. POUNDSTONE: So you know what it  
24 is?

25           THE WITNESS: Yes.

1 MR. SANSPREE: Bobby, just for the  
2 record, these aren't -- what you faxed to me last  
3 night aren't Bates labeled, so I really can't  
4 refer to them as that, but without the cover  
5 page --

6 MR. POUNDSTONE: One way to do them is  
7 you have the phone -- just the sheet with just  
8 the phone computer notations on them.

9 Then the other documents, one of them  
10 is page 1 of 1 and the other one is page 82  
11 through 90 of 198, so you could probably refer to  
12 those pages by their numbers.

13 MR. SANSPREE: You're right. The  
14 first -- how I've got it set up is the first page  
15 that I'm going to mark collectively as Exhibit 2  
16 just has the telephone numbers. And I don't  
17 know, looks like -- let's see -- like 15 times or  
18 12 to 15 times. I hadn't counted them, but just  
19 guessing. And that's the first page of Exhibit  
20 2. And then the second group of pages would be  
21 the 82 through 90 of 198.

22 MR. POUNDSTONE: Do you want to mark  
23 those as Exhibit 3?

24 MR. SANSPREE: No. So you all have the  
25 exhibits set up like I'm reading it.



1 MR. POUNDSTONE: Okay.

2 MR. SANSPREE: Then the last page will  
3 be that 1 of 1 that you just referenced.

4 MR. POUNDSTONE: Okay.

5 MR. SANSPREE: All of that together  
6 would make up Exhibit 2.

7 MR. POUNDSTONE: I think they're going  
8 to be separate documents. You may want to do the  
9 first page with the telephone listing as Exhibit  
10 2, and then the other ones collectively as 3.

11 MR. SANSPREE: Let's do that. The  
12 telephone records, or the page with the telephone  
13 numbers on there, is Exhibit 2. Exhibit 3 will  
14 be the 82 through 90 of 198, and then Exhibit 4  
15 would be that 1 of 1.

16 (Plaintiff's Exhibit Number 2, 3 and 4  
17 marked for identification purposes and  
18 made a part of the record)

19 Q (By Mr. Sanspree) Now, Ms. Hernandez,  
20 looking at Exhibit 2 which is that first page  
21 with the telephone numbers, did you generate this  
22 information?

23 A I did generate it, yes.

24 Q How did you come about this  
25 information? Did you get it off the computer

1 system?

2 A Yes.

3 Q Did you do that at the request of your  
4 attorneys or acting on your attorney's behalf?

5 A I did after a conversation Staci and I  
6 had about the upcoming lawsuit.

7 Q Can you tell me, just for the record,  
8 what Exhibit 2 is? I can look at it and tell you  
9 it's some phone numbers, but tell us what Exhibit  
10 2 is.

11 A This list actually comes from an  
12 application that's used in customer service. I  
13 have access to it on my computer because I  
14 routinely monitor telephone calls, and so I  
15 pulled a list of all of the calls that came from  
16 a phone number that I found on the master file  
17 that belonged to the Luries.

18 Q And Ms. Hernandez, how familiar are you  
19 with the telephone systems at Globe Life?

20 A Fairly familiar. I -- you know --

21 Q Do you know -- go ahead. I'm sorry.  
22 That's one thing we ran into last time. Stop  
23 real quick.

24 One thing we ran into in the last  
25 deposition is there's like a two second lag

1 between what you say -- my questions and what you  
2 say. If you stop for one second, I'll ask  
3 another question. I'll do the same, you'll do  
4 the same.

5 First let me ask you this. I know you  
6 use the telephone and everything like that in  
7 your day-to-day activities, but are you familiar  
8 with the recording and how the telephone numbers  
9 are recorded on the telephone system?

10 A Yes, I am.

11 Q Can you tell us how those are recorded?

12 A The Eon system is the software vendor  
13 that we use, has a mechanism that records the  
14 phone numbers, much like you would have Caller  
15 ID at home. And that information is maintained  
16 in a database that can be queried.

17 Q Just for the record, what type of  
18 system? You said Eon. Can you spell that for  
19 me?

20 A E-O-N.

21 Q Okay. You said it's kind of like a  
22 Caller ID system. I know at my house I can mash  
23 a button and it will show all the numbers.

24 Is there a certain amount of time --  
25 does this keep the numbers forever or does it

1       purge itself?

2               A       It does not purge itself; however, I  
3       don't know the details about how long we maintain  
4       information.

5               When we first got the system -- and I  
6       don't know the exact date but it was early in  
7       2004 -- when we first got the system, we had not  
8       yet set archive dates as far as how long we would  
9       keep calls.

10              Q       Did you have this system in January of  
11       2004?

12              A       I don't know that for sure. I don't  
13       believe so.

14              Q       Who would know that, what date you all  
15       got this system?

16              A       Our customer service supervisors may  
17       know the date.

18              Q       And would that be --

19                      MR. SANSPREE: Phil, is that the guy  
20       that's coming in later?

21                      MR. BUTLER: Yeah. I think, Chris,  
22       don't hold me to this, but I think it was  
23       sometime in March that we got it.

24              Q       (By Mr. Sanspree) Now, Ms. Hernandez,  
25       these numbers, are they recorded when a phone

1 call is made or comes in, or when somebody has  
2 to -- does somebody have to enter it on the  
3 computer?

4 A They're automatically recorded when the  
5 phone call comes in.

6 Q And this generation -- the information  
7 that's generated by you regarding the phone  
8 calls, evidently there were some specific to  
9 a certain telephone number. How did you come  
10 across this number?

11 A It was on --

12 Q Were you provided that information by  
13 your attorney?

14 A It was on the master file record for  
15 the policy in question. The phone number was  
16 a part of that record. I put the phone number  
17 into a query to the database.

18 Q And these are all the calls -- can you  
19 do a cutoff? Are these all the calls you  
20 received, I guess, from March 11th, 2004, to  
21 present or did you stop it down at May 28th?

22 A To the -- to my knowledge, these are  
23 all the calls. I don't recall putting in a time  
24 frame.

25 Q Okay. Can you tell us your position

1 with Globe Life?

2 A Vice-president of the premium  
3 accounting department.

4 Q And how long have you been employed  
5 with Globe Life, please, ma'am?

6 A 26 years. I've actually been there for  
7 30.

8 Q What do you mean, you've been employed  
9 for 26 but been there for 30?

10 A I'm sorry. I left the company for a  
11 short period of time. I've been there since 1976  
12 but have a total work history of 26 years.

13 Q And have you always been in the premium  
14 accounting department?

15 A No, I haven't.

16 Q Can you tell us what other departments  
17 you were in before?

18 A I started in premium accounting. I  
19 rotated through some other functions that  
20 included a piece of customer service, living  
21 benefits, some other customer service functions,  
22 our general accounting department which we also  
23 called financial accounting at the time, and then  
24 back to premium accounting.

25 Q And how long have you been in premium

1 accounting this time?

2 A I've been back at Globe for five years.  
3 I've been in premium accounting that entire time.  
4 I was in premium accounting just prior to leaving  
5 Globe as well.

6 Q You say premium accounting. Can you  
7 tell us what that -- what your job duties are?

8 A I manage the receipt and processing of  
9 all premium collections. And that's for all  
10 collection types, not only for our direct bill  
11 business but all of the payment options that we  
12 offer to policyholders.

13 Q And do you have an accounting degree or  
14 anything like that? You're not having to do any  
15 mathematic computations, are you?

16 A I'm not, no. And no, I don't have a  
17 degree.

18 Q I'm just trying to figure out what that  
19 department -- so basically the department,  
20 premium accounting department is that you just  
21 get the premiums and make sure they are credited  
22 to the proper policy?

23 A That's correct.

24 Q And now I'm going to refer you to  
25 Exhibit 3 which is one of the documents that

1 Bobby faxed -- somebody faxed to us. I think  
2 Phil did, either that or Bobby. I can't  
3 remember.

4 Now, do you have those, ma'am?

5 A Yes, I do.

6 Q Okay. Can you tell us what Exhibit 3  
7 is?

8 A Exhibit 3 is a print of the detail of  
9 items processed by the clerk that processed the  
10 Lurie's check on January 16th. I printed a  
11 detail of all of the pages that encompassed the  
12 premiums she processed that day.

13 Q And when you say "she," are you  
14 referring to this Jeannie at the top?

15 A Yes. Yes, I am.

16 Q So when it says Globe -- I'm reading  
17 from the top of the first page, it says "Globe  
18 Life," and it says "Premium accounting exception  
19 transactions." Then under that it says "Balance  
20 report - detail for Jeannie Reaka"?

21 A Jeannie Reaka.

22 Q Now, she's the one that would enter all  
23 this information? I guess these are her --

24 A That's correct, she entered the  
25 information for all of these payments.



1 Q And it's your testimony that you  
2 printed this off of the computer system yourself;  
3 correct --

4 A That's correct.

5 Q -- Exhibit 3? The second page of  
6 Exhibit 3, if you go the third check down, says  
7 check number 950, premium payment of 33.60.  
8 \$33.60?

9 A Yes, I see it.

10 Q And to your information, is that a  
11 Lurie payment for the policy we're here today on?

12 A Yes, it is.

13 Q And it has a process date, do you see  
14 over to the right where it says 1/16/04? Do you  
15 see that?

16 A Yes.

17 Q And could you tell us, does that mean  
18 that the check was processed on January 16th,  
19 2004, by Globe Life?

20 A Yes, that's what it means.

21 Q And could you tell us what "processed"  
22 means?

23 A Processed means that that payment  
24 information was put into our system for it to be  
25 used to update the policy. That would have

1 happened in the nightly cycle on January 16th.

2 Q Obviously that was done for this  
3 policy; correct?

4 A That's correct.

5 Q In the premium accounting department,  
6 are you familiar or do you know one way or the  
7 other whether somebody's late on their premium  
8 payments or not?

9 A We do, yes.

10 Q And how are you made aware of that? Is  
11 it something that's on the computer system? Tell  
12 me how you would know if somebody was late on  
13 their premium payments.

14 A By the -- by the paid to date. We have  
15 certain criteria that if the payment is being  
16 systematically processed, the machine would not  
17 allow a payment to process after a certain number  
18 of days. This payment was handled manually. The  
19 clerk would have --

20 Q What do you mean by that?

21 A The clerk entered this information by  
22 keying it into the computer.

23 Q Did the machine allow her to process  
24 this claim or this check for payment?

25 A The computer did allow her to process

1 this payment, yes.

2 Q So there was no hold or anything like  
3 that on the policy when this premium payment was  
4 made; correct?

5 A That's correct.

6 Q And I noticed, just by looking through  
7 these documents pretty quick, that on page 2 it's  
8 got, right next to where it says check number 950  
9 and you go across the middle, at the top it says  
10 "over-under" and it has .60. Looks like 60  
11 cents. Do you know what -- what does that mean?

12 A Over-under is the terminology used on  
13 this system for long and short. The two-month  
14 premium calculated by the system was \$33 even.  
15 We received a payment for \$33.60. Our tolerance  
16 rules allowed us to take that 60 cents to long  
17 and short.

18 Q Can you explain -- a lot of folks that  
19 might be listening to this or hearing this  
20 testimony won't know anything about insurance or  
21 accounting or anything like that. Can you  
22 explain what long and short is?

23 A Long and short would be an amount that  
24 we will accept a payment, whether it is long, in  
25 this case it was 60 cents long for what the

1 calculation for the two-month mode was, or it  
2 could have been short by the same amount and we  
3 still would have accepted it.

4 Q And just for the record, long means an  
5 overpayment?

6 A Yes.

7 Q And short would be an underpayment?

8 A That's correct.

9 Q So they overpaid -- the Luries overpaid  
10 60 cents, and that's acceptable; correct?

11 A That's correct.

12 Q But they could also have paid 60 cents  
13 less, which would be 29.40, and that still would  
14 be acceptable?

15 A We still would have accepted it.

16 Q Okay. In your premium accounting  
17 department, are you all responsible for sending  
18 out premium notices?

19 A That's a function of our billing area.

20 Q That wouldn't be part of your --

21 A In 2004, it actually was my  
22 responsibility for billing. I no longer have  
23 responsibility for the billing area.

24 Q Do you know when in two thousand --  
25 when did it switch over to go to the billing

1 department from the premium notice department?

2 A The responsibility for billing switched  
3 over in late 2005.

4 Q In your capacity with your employment  
5 with Globe Life back in 2004, did you oversee the  
6 issue of premium notices?

7 A Yes, I did.

8 Q And did you oversee -- to your  
9 knowledge, did you oversee the issue of some  
10 premium notices in this case?

11 A It would have been in my  
12 responsibility, yes.

13 MR. SANSPREE: Bobby, I'm referring to  
14 Lurie 24. This should be something we produced  
15 to you.

16 MR. POUNDSTONE: Okay.

17 MR. SANSPREE: Can you show the  
18 witness, please, if you don't mind.

19 THE WITNESS: I have it.

20 Q (By Mr. Sanspree) Have you seen that  
21 document before?

22 A Yes, I have.

23 Q And when did you see this document?  
24 When is the first time you remember seeing this  
25 one?

1           A       I reviewed a copy of this document  
2       yesterday.

3           Q       Okay. Other than reviewing it  
4       yesterday, do you remember seeing this document  
5       back in 2004?

6           A       No, I would not have personally seen  
7       this document in 2004.

8           Q       And this document that I'm referring  
9       to --

10           MR. SANSPREE: Bobby, I guess we'll  
11       mark it as 5.

12                   (Plaintiff's Exhibit Number 5 marked  
13                   for identification purposes and made a  
14                   part of the record)

15           Q       (By Mr. Sanspree) Is this what you were  
16       testifying to earlier that would come out of the  
17       premium accounting office back then?

18           A       It would have come out of our billing  
19       department which I had responsibility for at that  
20       time.

21           Q       All right. Maybe I'm confused, but the  
22       billing -- you said it's the responsibility of  
23       the billing department now but that changed in  
24       2005.

25                   Back in 2004, the premium notices, were

1 they sent out by the premium accounting offices  
2 back in 2004?

3 A Not by the premium accounting office  
4 specifically. I was in charge of billing and  
5 collections at that time. I'm no longer in  
6 charge of billing.

7 Q Okay. Are you familiar in any way with  
8 the claim in this lawsuit?

9 A Only what I have reviewed that is in  
10 the file of what was provided.

11 Q Is it standard accounting -- premium  
12 accounting or billing practices in the billing  
13 department to send out premium notices on  
14 policies that have lapsed?

15 A We send out a billing notice that is an  
16 offer for reinstatement, and that is a standard  
17 practice.

18 Q What about on policies that have  
19 lapsed, do you all send out premium notices that  
20 there's no longer any policy in effect?

21 A It is a premium notice but it's also an  
22 offer of reinstatement.

23 Q All right. Well, I mean, say, for  
24 instance, that a person doesn't have a policy --  
25 or quit paying premiums a year ago. Would you

1 all send an offer of reinstatement to that  
2 insured?

3 A We would not.

4 Q What I'm trying to get at, is there a  
5 time period where you would stop sending premium  
6 notices or offers of reinstatement?

7 A Yes. After 60 days we do not send  
8 another offer.

9 Q Ms. Hernandez, I guess you're here just  
10 to tell us that the premium was made and  
11 processed on the 16th of January, 2004, and  
12 that's basically it?

13 MR. BUTLER: She's here to answer your  
14 questions.

15 Q (By Mr. Sanspree) Was the premium made  
16 and processed on January 16th, 2004?

17 A There was, indeed, a premium processed  
18 on January 16th.

19 MR. SANSPREE: Well, thank you for your  
20 time.

21 THE WITNESS: Thank you.

22 MR. SANSPREE: I don't have any other  
23 questions.

24 (Deposition adjourned at 1:03 p.m.)  
25



